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## CONTEXT AND ACKNOWLEDGMENTS

This report presents the conclusions of a strategic assessment of the democracy and governance situation in Bulgaria as of June 2001. The field research and interviews were conducted between April 17 and May 4, 2001.

As the list included at the end of this document indicates, interviews were held with a broad range of Bulgarian officials in the central government administration, party leaders, members of parliament, civil society activists, regional governors, mayors, municipal councils members, researchers affiliated with some of Bulgaria's most prominent think tanks, businesspersons, representatives of the media, and judges. The team also consulted with the leading bilateral and multilateral donors in the field of democracy and governance, including the European Union, the World Bank, and the UNDP, as well as with American contractors and grantees working in Bulgaria, including IRI, NDI, the East-West Management Institute, the American Center for International Labor Solidarity (ACILS), and Management Systems International (MSI).

In the short span of less than three weeks, these interviews were conducted not only in Sofia, but in several localities around the country. On April 24-25, the team travelled to the cities of Vratsa and Montana, in the northwest region of Bulgaria. This region has been hit particularly hard by economic restructuring and by the closing of unprofitable, state-owned enterprises. Vratsa, with a population estimated at 110,000, is the largest municipality in northern Bulgaria. There, the team met with the Mayor (BSP) and several members of his municipal council, as well as with the Deputy Regional Governor. In Montana (65,000 people), the team interviewed the Mayor (UDF), a Municipal Councilor (BSP), Roma NGO leaders, as well as business persons.

On April 26, the team headed for Varna (Bulgaria's third largest city, located on the Black Sea), thus crossing the entire country. Unlike Vratsa and Montana, Varna and its region are relatively prosperous. Bulgaria's most important port, Varna is also a tourism center and a relatively cosmopolitan city that is used by some foreign businesses as a base for their commercial operations in the country. On its way to Varna, the team stopped in Shumen, a regional center that received much official attention during the communist era, but has seen its situation deteriorate during the 1990s. There, the team interviewed the Deputy Chair of the District Court as well as several other judges, and met with more than half-a-dozen members of a Bulgarian Turkish NGO. In Varna, the team interviewed the Deputy Mayor (BSP), the Regional Governor, judges, businesspersons, NGO leaders, and the manager of a private radio station.

The team would like to thank Debra McFarland, USAID/Sofia Mission Director, for her interest in this assignment, and for the courtesy she extended to the team. Several U.S. Embassy officials also kindly made time to share their views with us, including Roderick Moore (Deputy Chief of Mission), Michael Seidenstricker (Public Affairs Officer), Roy Whitaker (Political Officer), and John Winant (Counselor for Political and Economic Affairs).

The team is pleased to express its special gratitude to the members of USAID/Sofia's Democracy and Governance staff, who were all were very generous with their time. Kiril Kiryakov, Local Government Advisor, accompanied the team during its field visits of Vratsa, Montana, Shumen, and Varna, and never tired of answering the constant flow of questions directed at him. His

considerable expertise and knowledge greatly facilitated our task. We also benefited from the insights and information provided by Diana Arnaudovam (responsible for USAID/Sofia's Civil Society Programs), Dessislava Bijeva (S.O. 2 Team Leader), Thomas Potocki (Senior Local Government Advisor), Ivanka Tzankova (Program Officer) and her staff, as well as Bill Foerderer (Chief, Private Enterprise Office) and Edward T. Lafarge (Private Enterprise Officer). Many thanks as well to Radina ????? [LAST NAME NEEDED], who tirelessly scheduled, rescheduled, and confirmed interviews, and made sure that countless other logistical tasks that emerged through the course of the assessment were taken care of. [NAME] Bobby was consistently good humored as he drove the team throughout Sofia, to the northern part of the country, and then to the Black Sea and back. His driving skills and concern for safety were very much appreciated.

More generally, the staff at USAID and the U.S. Embassy in Sofia could not have been more supportive of this mission. We are grateful for their efforts to facilitate this assessment, as well as for the kindness they demonstrated to us.

While the team conducted its work, Keith Schulz, a Democracy Fellow at the Center for Democracy and Governance in Washington, was also in Sofia carrying out an assessment of parliament. We interacted with Keith almost on a daily basis, and discussed with him several of the conclusions found in this report. We benefited greatly from his input and willingness to share with us many of his findings.

## INTRODUCTION

Between 1989 and 1991, Bulgaria carried out a peaceful transition from communism to a democratic system. The transition began on November 10, 1989, when aging Communist Party leader Todor Zhivkov, who had ruled the country since 1954, was finally forced to resign. Those who removed Zhivkov from power were senior officials in the old regime, who were prompted to action by a mass pro-democracy rally in Sofia, as well as by the events sweeping through Eastern Europe at the time.

Roundtable negotiations between the ruling party and representatives of opposition groups began in January 1990, and resulted in the first free elections in fifty years, which were held in June 1990. Those elections were for a Grand National Assembly (GNA), which was to operate as both a parliament and a constituent assembly. On July 12, 1991, the GNA passed a new, democratic constitution, which has been in effect ever since. Thus, a country once widely seen as the most loyal of all Soviet satellites, and in which protest against communist rule had always been muted, became the first in the former communist bloc to have a democratic constitution.

By October 1991, Bulgaria's transition could be described as having been completed. The country already had held two different sets of parliamentary elections, each of which had resulted in a narrow victory by one of the country's two main and rival political forces. The June 1990 elections had been won by the the Bulgarian Socialist Party (BSP), the heir of the former Bulgarian Communist Party (which had renamed itself BSP in April 1990). The October 1991 elections had seen the Union of Democratic Forces (UDF) – a center-right coalition of opposition groups established in December 1989 – prevail, by a small margin, over the BSP.

Unfortunately, between 1990 and 1996, Bulgaria delayed many of the political and, especially, economic reforms that it needed. This reflected largely governmental instability and the inability of either of the two major contending forces – the UDF and the BSP – to win clear electoral victories. (Had the UDF not split on the eve of the October 1991 parliamentary elections, the situation might have been very different, and Bulgaria might not have lost most of following six years.) A majority of Bulgarians, it seemed, did not see the need for radical and painful reforms. Meanwhile, their politicians lacked the political courage or commitment to press for drastic changes in the way the country was run and the economy operated.

Neither the parliament elected in October 1991 nor that elected in December 1994 were able to complete their terms. Between 1991 and 1994, a succession of rather ineffective and short-lived governments – a UDF-led cabinet in 1991-92, a so-called “government of technocrats” in 1993-94 (largely manipulated by the BSP), and a BSP-led “caretaker government” between October 1994 and January 1995 – hindered policy-making. Critical as well throughout this period was the remarkable political resilience of the BSP, which remained perhaps the most “unreformed” of the former communist parties in the region. Presenting itself as a defender of the socially vulnerable, and arguing in favor of a “gradual transition,” the BSP used its continued influence to thwart real reform, while allowing shadowy economic and political groups tied to it to accumulate wealth through crony privatization.

In the parliamentary elections of December 1994, the BSP won an absolute majority (52.1 percent of the votes, and 125 out of 240 seats). With only 28.7 percent of the votes, the UDF suffered a humiliating setback. Ironically, these results stemmed, in part, from the disappointingly slow pace of reforms between 1991 and 1994. As reform lagged, the economy deteriorated, and the BSP's pledge to protect those whose standards of living had worsened struck a chord with large segments of the population.

Under the cabinet that was formed following the December 1994 elections, the political and economic situation in Bulgaria took a quick turn for the worse. Commitment to genuine reform, already weak since the beginning of the transition, all but disappeared. Due to a mixture of mismanagement, deeply flawed policies, and corruption, the country was brought to the verge of economic and political collapse.

By December 1996, Bulgaria was looking into the abyss. Inflation, which rose over 1,000% that year, had devastated pensioners and others on fixed incomes. A third of the country's banks had collapsed. Much of the country's former middle class had joined the ranks of the poor and the unemployed. Domestic and foreign investment, which already had been lagging, came to a standstill.

It was in that context that widespread protests against the government took place throughout the country in late 1996 and January 1997. Faced with mounting popular discontent, the government agreed to hold early elections, and in February 1997 it turned power over to a caretaker cabinet led by Sofia mayor Stefan Sofianski (UDF).

The relatively peaceful manner in which these momentous events unfolded suggests that, for all of its economic woes, the country had managed to enable democracy to take root. After all, the protests against the government had been conducted without significant violence, and a discredited government had resigned itself to early elections, without seeking to manipulate the results. Since 1991, successive elections for parliament, the presidency, and local government had all been considered free and fair, and genuine alternations of power had occurred. By and large, the rules and procedures established by the constitution had been respected. Moreover, the country seemed to be a rare model of ethnic tolerance in the Balkans. The first post-communist government had moved very quickly in December 1989 to repair the damage created in the mid-1980s by the communist regime's policy of forced assimilation of the Turkish minority. This far-sighted policy greatly facilitated the country's political development throughout the decade that followed.

Still, in economic terms, the situation by 1997 seemed bleak indeed, and many of the problems that the country still confronts today can be traced back to those dark years. In the parliamentary elections of April 1997, the UDF won an absolute majority (137 out of 240 seats, against the BSP's 58 seats and the MRF's 15 seats). Capitalizing on this solid mandate, the UDF – whose candidate Petar Stoyanov had already captured the presidency during elections held in November 1996 – proceeded to form the next government. Led by Ivan Kostov, the new center-right cabinet embarked on an ambitious program of economic reforms. In June 2001, that government, and the parliament in which it held a majority, were the first ones to complete their term since the transition began in 1989.

Especially when examined against the background of the protracted social and economic crisis of the winter 1996-97, when the country seemed dangerously close to economic bankruptcy and political chaos, **the past four years have been characterized by remarkable advances.**

**In the economic realm**, the single greatest achievement has been the remarkable improvement in the country's macroeconomic picture. Driving this process were the elimination of price controls, the encouragement given to a system of private banking, and, especially, the adoption (at the suggestion of the IMF) of a currency board that pegged Bulgaria's currency, the lev, to the D-mark. The latter measure quickly stabilized the lev, which has remained steady ever since. Since 1997, the economy has grown consistently at rates averaging between 4 and 5 percent a year. Inflation has been brought under control (it had declined from 1,080 in 1996 to below 10 percent in 1998). Foreign reserves increased from about \$40 million in 1997 to \$2.6 billion in 2000.

**In the political realm**, democratic institutions and procedures are now more or less taken for granted. Democracy has taken hold, and, thus far at least, Bulgaria does not appear to be threatened with the kind of backslide toward authoritarianism that has affected numerous countries in Eastern Europe and Central Asia.

In terms of both legislation and institutions, most of the building blocks of a democratic political system are in place, and the country's overall stability contrasts singularly with the unrest of late 1996-early 1997, as well as with the volatility found elsewhere in the region. Following the UDF government's crackdown on organized crime, the latter has become far less powerful and visible than before. And while there is growing disillusionment with politics and political parties, that disillusionment reflects not only the failings of politicians and the government, but also the fact that the population has become far more demanding of them in the past ten years. Bulgarians now expects public figures to perform to standards of accountability and transparency that are much higher than was the case before.

Still, while there is no denying the enormous distance covered since 1997, **serious problems persist, and some of these problems have even become worse in the past two years.**

**Economically**, the greatest problems are unemployment and declining living standards for a majority of the population. Unemployment has risen from about 12 percent in 1998 to over 20 percent today, and it affects disproportionately certain groups in society – women and ethnic minorities in particular. In many parts of the country (including in the south, where the Turkish minority is geographically concentrated), unemployment routinely exceeds 50 percent.

Some analysts argue that the government lacks a real, long term economic strategy to stimulate growth, and that its policy is limited to what is needed to ensure macroeconomic stability. As the editor of the country's most highly-regarded economic weekly declared to the team, "a currency board is not an economic policy." Similarly, some observers claim that the government's rhetoric about economic liberalization has not been matched by a coherent long term approach to bring about a genuine liberalization of the economy. Significantly, the share of public wages in GDP, as well as the percentage of GDP that goes to social programs, have both increased in recent years. Meanwhile, the pace of privatization has slowed down significantly in the past two years, and, in several instances (such as in the telecommunications sectors), critical windows of

opportunity were missed as a result. Moreover, privatization has been marked by a lack of transparency and mismanagement. Incidents such as the botched privatization of Balkan Airlines reflected very poorly on the competence and integrity of senior officials entrusted with the privatization of public assets, and gave a bad name to privatization. In other instances, because the legal and regulatory framework that prevailed at the beginning of the privatization process was insufficiently transparent, potential investors did not show sufficient interest in privatization deals.

**With respect to political problems,** discontent with the government and the UDF has grown significantly since 1999 as a result of several factors:

- (a) A belief that the government has failed to rein in corruption, and that it has proven far too tolerant of abuses of power and authority (especially throughout the privatization process) by individuals tied to the ruling party;
- (b) The deterioration in the living conditions of large segments of the population;
- (c) A widespread perception that the government and ruling party have been prone to exercising power in a heavy-handed manner, and that on several key issues they have sought to restrict debate and constrict political space.

These factors, as well as growing internal divisions within the UDF since 1999, have led to a perception that the ruling coalition is suffering from exhaustion or fatigue, and that it has lost the considerable momentum with which it was swept into power in April 1997. Significantly, the UDF performed less well than it had hoped in the October 1999 local elections (it captured 101 out of 262 municipalities, while the BSP prevailed in 94 others). Since then, approval rates for the government (and, in particular, Prime Minister Kostov) have decreased even further.

Even more worrisome than growing popular discontent with the government is mounting evidence that the population feels increasingly alienated from all the major political forces. Citizens believe that they are not being represented, and they do not feel that they have a stake in the country and its future. Political apathy is growing. A population increasingly disillusioned with political figures and institutions is showing signs of disengaging from public life in general. These are dangerous trends, the roots and manifestations of which will be further elucidated in the rest of this document.

Some of the challenges facing Bulgaria can be traced back to regional turmoil. For instance, successive wars in the former Yugoslavia, as well as the U.N embargo against Serbia, damaged Bulgaria's trade routes to central and western Europe. Regional instability also impacted negatively on the amount of foreign investment the country received. Still, Bulgaria's problems are mostly self-inflicted, and greater political will to address key democracy- and governance-related issues would go a long way toward improving the country's economic and political prospects. With this in mind, the document now turns to a more detailed analysis of Bulgaria's performance in the democracy and governance areas.



## PART ONE

### ASSESSING BULGARIA'S PERFORMANCE IN THE DEMOCRACY AND GOVERNANCE AREA

This first part endeavors to measure Bulgaria's performance in the D/G area by using five criteria:

- The degree of **consensus** over the basic rules of the political game;
- The extent to which the state provides for the **rule of law**;
- The degree of free and fair **competition** in the political system;
- The extent to which the system is **inclusive**, and gives all segments of the population an opportunity to participate in the political process
- And the capacity of the state and societal institutions to deliver **good governance**.

As this general evaluation was conducted, it became clear that the most prominent D/G obstacles confronting Bulgaria lie in the rule of law and governance areas, though the country also faces some significant inclusion-related challenges. To facilitate the presentation of the analysis, this section will progress from the least to the most problematic areas. Consequently, it will begin with a review of the situation in the consensus and competition areas, before turning to inclusion, and finally zeroing in on rule of law and governance.

Improvements in rule of law and governance are critical not only to Bulgaria's ability to consolidate its still fragile democracy, but also to its ability to meet the two other major challenges that will shape its future:

- (a) Creating the foundation for sustainable economic growth;
- (b) Integrating into the European Union within a relatively short time frame (the official date is 2007, though it is unlikely the country will be ready by then).

As far as the economy is concerned, Bulgaria must deliver greater respect for the rule of law if private investment, both domestic and foreign, is to increase to the level required to reduce currently high levels of unemployment. The high cost of credit, and the high collaterals that banks require (and which businesspersons regularly identify as the major hurdle they face) are largely a product of the problems associated with enforcing contracts.

Regarding European accession, both the quality of laws and law enforcement mechanisms must be significantly upgraded if Bulgaria is to comply with European standards. More generally, Bulgaria's political and economic development prospects will hinge on drastic improvements in the quality of public administration and, more broadly, in the capacity of governmental and societal institutions to provide for good governance – a capacity that is currently lagging.

## CONSENSUS

Both in society at large and among the country's key political forces, **there is a broad consensus on issues of national identity, citizenship, borders, and democracy as the most appropriate form of government.**

- There is widespread agreement that power should be held by those who win free and fair elections, and that political actors ought to operate within a democratic structure. Though there is some questioning of the laws and regulations that govern NGOs, the media, and electoral competition, by and large there is a strong consensus on the fundamentals of the system.
- There is no apparent longing for a return to the authoritarian model. The “reformed” communist party – the Bulgarian Socialist Party (BSP), currently the country's second largest political force (representing between 15 and 18 percent of the electorate) – is not looking nostalgically at the rear mirror for the “good old days of communist rule.” That party appears strongly committed to playing by the rules of democracy, and has done so since the transition began (most notably in 1997, when it agreed to early elections, even though it knew that those elections would almost certainly result in its being voted out of office).
- There are no significant anti-system forces claiming to offer a radical alternative to the current order. The fact that no such movement or party has emerged since the transition began in November 1989 reflects a strong commitment to democratic norms, both in the elite and the population at large. Though there is clear unhappiness about the deterioration of living standards and a widespread disillusionment with politicians, one does not see the kind of destabilizing anger that could open the door to dangerous, radical alternatives to the present system. In short, not only does Bulgaria lack a radical party, but also the social base for such a party does not appear to exist, at least at the moment.
- Some concern has been voiced about the extent of King Simeon's commitment to democracy. It is true that, when he declared his intention to participate in the June 2001 parliamentary elections, the King entered the political arena with no absolute commitment to the present constitution. Furthermore, to the extent that his statements betray a particular political philosophy, the latter appears to reflect a form of “soft authoritarianism,” with strong nationalist and paternalistic overtones. Nevertheless, thus far, the King has been willing to play by the rules. Still, it will be important to monitor what happens to the electorate that rallied behind his banner. After all, support for him came predominantly from those searching for ways to express a “protest vote” at the system. King Simeon's entry into politics gave those constituencies an opportunity to express themselves peacefully, behind a platform generally seen as moderate and mainstream. However, should the king fail to retain the support of those forces, the latter could potentially be tapped by a more clearly anti-democratic current.
- The polls conducted by IRI point to continued popular support for democratic structures and procedures. These polls indicate that, for all the material problems that confront Bulgarians in their daily lives – and these problems have become worse for a majority of the population – a majority of those surveyed feel that the country is headed in the right direction. This is a

particularly revealing finding considering that those same polls suggest that approximately two-thirds of the population feel that they are worse off today than they were four years ago. Bulgarians appear to ascribe the problems that they and the country face not to the fundamental political choices that the country has made (democracy, a market-oriented economy, and a western-oriented foreign policy), but to the distorted manner in which these choices sometimes have been implemented by politicians and government officials more concerned with their own welfare than with that of the country.

- The consensus on what the basic parameters of political life should be is shared by the country's ethnic minorities. The Movement for Rights and Freedom (MRF), which remains widely seen as the party of Bulgaria's Turkish minority (estimated at about nine percent of the population), is strongly committed to maintaining the territorial integrity of the country. It struggles for equal rights within the system, and has successfully fought to neutralize more radical voices within the community. Generally peaceful ethnic relations have greatly facilitated consensus building across cultural divides. In the past ten years, issues related to minorities have been discussed widely, especially on the radio and in the press (though to a lesser extent on television). Airing of these issues is no longer considered a taboo, and arguments to the effect that raising them will disrupt national unity and split the country have lost ground.

Even more striking than the consensus on the rules that ought to govern political competition is the **broad consensus on the key public policy issues – both domestic and external – facing the country.**

- There is widespread agreement on the need for further economic reform and liberalization. None of the major political forces in the country openly questions that a market-oriented economy is desirable, or that it represents the only viable option if Bulgaria is to meet the challenges ahead. None of the key actors questions the need to shrink further the state's direct involvement in production activities. There is a general consensus that the state's most important economic roles are to guarantee the existence of a level playing field among economic actors, and to create conditions favorable to private sector growth. Strikingly, even the country's two leading trade unions do not question the need for further privatization and economic restructuring.

To be sure, the BSP and the UDF still disagree on what the extent and pace of economic liberalization should be, but differences between the two main parties on these matters have narrowed significantly since 1997. To the extent that disagreements persist on those issues, they do not reflect a questioning of the desirability of a further opening of the economy, or of downsizing the economic role of the state. Instead, they concern mainly the speed and manner in which these changes ought to take place: should economic reforms be accelerated, continue at about the same rate, or be conducted in a more incremental and gradual manner so as to minimize social disruptions? How extensive of a social safety net should the state be responsible for? Disagreements over such issues are found even among consolidated democracies, and should not detract from the basic agreement on the need to move toward a more market-oriented economy. Similarly, there is a consensus on the need to continue the privatization process. To the extent that that process has been questioned, the questions that have been raised have concerned

the lack of transparency that has characterized numerous privatization deals — not the desirability of transferring many state assets to the private sector.

The current support for further economic liberalization stands in sharp contrast to the deeply polarized views regarding that very same issue back in the early 1990s. In fact, the sharp disagreements that existed at the time were responsible for delaying the economic reforms, which the country desperately needed. The severe economic crisis that resulted in 1996-97 may have helped create the current consensus.

- There is also a general consensus on what the country's basic foreign policy orientations ought to be. In particular, both European accession and NATO integration are widely seen as critical to the country's political and economic development and as the keys to a better future. The strength of the current support for NATO integration is particularly striking considering that only two years ago, and largely as a result of NATO strikes on Serbia, there remained significant questioning of whether Bulgaria ought to join that organization. (The fact that, during the Kosovo war, a stray NATO missile smashed into a house in the suburbs of Sofia did not help.) But for now at least, those reservations seem to have disappeared (though some of King Simeon's statements suggest that he has doubts about the wisdom integrating Bulgaria into NATO). To the extent that the population still feels ambivalent about EU and NATO integration, that ambivalence does not betray a questioning that membership in those bodies is desirable or good for the country. Instead, it stems from a widespread perception that the elite is too focused on these foreign policy goals, and that politicians are not paying enough attention to domestic issues, especially those that relate to the economy and the social costs of the transition.

Overall, therefore, the obstacles that remain on Bulgaria's road toward a consolidated democracy do not stem from a lack of consensus on the rules of the political game. In fact, the existence of a broad societal consensus on those rules as well as on the basic public policy issues facing Bulgaria represents real assets for the country.

## COMPETITION

The current system provides for a significant degree of free and fair competition among various political and social forces. For the most part, the remaining key impediments to competition lie in three main areas:

- A. the preponderant amount of power that the central government wields over local government;
- B. the government's consistent attempts to influence the content of print and, especially, broadcast media;
- C. the weaknesses of advocacy NGOs.

Despite a growing awareness of the need for fiscal decentralization, Bulgaria remains a centralized state, as it has been for the past 120 years. **The prerogatives of local government**

**are tightly circumscribed, and the balance of power between central and local authorities is heavily tilted toward the former.** Particularly significant in this respect is local government's financial dependence on the central government, and the very limited control that municipalities enjoy over their finances. Local government authorities collect local taxes and forward them to Sofia. Each municipality is then allocated a budget by the central government. Typically, however, that budget only represents a fraction of the taxes that were collected earlier by the local authorities. Furthermore, most of it is targeted towards specific expenditures, thus giving local governments little opportunity to identify and tackle the issues that they themselves see as most important. For their part, regional governments effectively operate as a branch of the central government, with responsibility for designing regional development plans and ensuring that the field services of the various ministries implement state policies.

**The broadcast media remains constrained in their ability to express a broad variety of viewpoints.** This situation stems primarily from the continued existence of a state-run TV and radio station, the dependence of private electronic media on the political preferences of the owners of those media, and government control over the licensing process.

Both the Bulgarian National Television (BNT) and the Bulgarian National Radio (BNR) depend on the government for funding and personnel decisions. Their political independence is thereby constricted, and neither operates as a truly public service. While all parties technically receive equal airtime during election campaigns, the ruling party benefits from its influence over the news programs on the BNT and BNR.

Although the private electronic media is more sheltered against direct governmental interference, it does not enjoy genuine freedom of expression. Private radio and TV stations usually reflect the political preferences and interests of their owners. Consequently, powerful private interests can, and do, seek to shape public opinion through their ability to determine what is and is not discussed on the airwaves.

A licensing process that is conducive to governmental interference also restricts the political independence of the electronic media. The presidency and parliament (both of which were under the control of the UDF between 1997 and June 2001) determine the composition of the National Radio and Television Council (NRTC), which is responsible for granting program licenses. This situation can and does lead the NRTC to display political bias in its decisions. This occurred for instance at the beginning of 2001, when the NRTC appointed as Director General of the BNR a little known, retired poet who had no previous experience in journalism or media management, and was widely viewed in the profession as unqualified for the job. This appointment was all the more striking that during its consultations with a broad array of media representatives, the NRTC had been presented with nominations of several well-qualified candidates. The event led to a public outcry among journalists at BNR, and the crisis was compounded when many of the protesting journalists were fired, at which point dissent spread from BNR to the NRTC, which itself became deadlocked over the situation.

Even after a program license has been attributed by the NRTC, a broadcast or frequency license must still be secured from the State Telecommunication Direction Commission, which is part of the executive branch of government, and is chaired by the Prime Minister. Ultimately, therefore,

political considerations loom large in the attribution of licenses, during a process that is also marked by a lack of transparency.

There are also reports of the government using its influence to keep companies from advertising during programs that are perceived to be critical of the government. Similarly, there is evidence that the government has sometimes exerted pressure on newspapers to alter their editorial policy, and the Prosecutor General has opened up investigations of several publishers who have been critical of his office. Sporadic harassment and intimidation of journalists by unknown assailants does take place, and seems to be in response to the positions taken by these journalists in their columns, or to specific reports they have published on sensitive issues such as corruption. It is believed that those responsible for assailing journalists are tied to the private interests targeted by these journalists' reporting.

**The weaknesses of advocacy NGOs also limit the extent of competition in the system.** To be sure, Sofia features a handful of first-rate think tanks that have proven capable of delivering competent analyses of public policy issues. However, there are very few genuine advocacy groups that can energize and mobilize the population, sustain the public's appetite for reform, and agitate for change on questions of critical importance to the reform process. For all their analytical strengths, think tanks cannot compensate for the paucity of advocacy groups capable of pressuring decision-makers into taking their views, and those of the constituencies they represent, into account.

Those advocacy groups that do exist are almost exclusively donor-driven. They operate more as avenues for providing talented individuals with consultancy-type jobs than as voices for change in the system. Furthermore, they work mostly in isolation from, and often in direct competition with, each other. Bitter, personal, and often petty rivalries have had as debilitating an impact on that sector as they have on other components of civil society. Consequently, advocacy NGOs thus far have been unable to turn themselves into a cohesive force, capable of acting as a counterweight to the state and its preferences.

**And yet, for all the evidence that has been presented in this section, Bulgaria's political and civil society arenas are fairly open to competition.**

- Successive elections to the presidency, parliament, and local government bodies have been free and fair, and have become routinized as a way of gaining access to power.
- Though civil society growth is hindered by regulatory constraints on tax exemptions and on the ability of NGOs to engage in fund raising, the state does not intervene to thwart the development of civil society.
- There are no serious impediments to forming a political party. Indeed, the country features several active political parties expressing different policy platforms and ideologies, and representing different constituencies and socioeconomic interests. The two major political parties, the UDF and the BSP, have consistently acted as checks on each other's power since the transition began in 1990. Since that time as well, the country's third largest political force, the MRF, has been able to exercise genuine influence due to its key role in the formation of coalition governments, or through its backing of specific candidates for the presidential

elections. Smaller parties exist and participate in elections on a regular basis. Their inability to transform themselves into genuine alternatives to the UDF and the BSP reflect more their own lack of momentum and shortcomings than any blatant manipulation of the system to their disadvantage.

- Whether in the electronic media or the press, there are no taboos or subjects that cannot be addressed.
- For all the weaknesses of the press, the latter presents a broad variety of viewpoints. There are no significant legal or regulatory barriers to entry in the profession – as shown by the fact that newspapers and magazines are created (and often disappear) on a regular basis. The capacity of the press to exercise genuine pressure on decision-makers is constrained more by its own shortcomings (especially the tendency toward sensationalism and “yellow journalism”) than by outright government pressure. The press regularly relays allegations of official corruption, and it features newspapers (e.g., *Trud* and *24 hours*) that regularly expose instances of government mismanagement and failed policies. Indeed, some newspapers have made a specialty of “constantly looking for ways to knock officials down from their pedestals,” as one of our informants put it, and of denouncing what they see as the arrogance and heavy-handed nature of the ruling party. While the government has sought repeatedly to interfere with the editorial line of newspapers, many journalists have organized themselves to expose and resist such pressures, and they have been relatively successful in this endeavor.
- Though the political independence of the electronic media remains constrained by the factors that were discussed earlier, it is nevertheless much greater today than was the case only five years ago. Private electronic media are growing fast – both in number and audience – bringing increasing diversity of opinions into the field.
- Unions have proven strong and resilient. They have played an important role in unveiling instances of official corruption and mismanagement of public assets, particularly during the privatization process, and in so doing they have placed the authorities on the defensive on several occasions. According to several analysts, pressure by the unions was instrumental in prompting the major cabinet reshuffle that took place in December 1999 over corruption issues.
- No particular group, social stratum, or political faction that has benefited from the privatization process has been able to transform this economic clout into lasting political power. Anecdotal evidence suggests that, from 1994 to 1997, those who benefited disproportionately from privatization were affiliated with the BSP, while since 1997 privatization has benefited mostly individuals with connections to the UDF. But although there has been crony privatization, the process does not appear to have affected disproportionately the balance of power between competing political and social forces. Individuals and groups that have manipulated privatization deals to their own advantage have not turned themselves into a cohesive force, capable of affecting significantly the country’s political direction.

The outcome of the June 2001 parliamentary elections should increase further the amount of competition in the system. Between 1997 and 2001, the UDF’s parliamentary majority enabled

that party to manipulate the rules to its benefit, and to exercise power in a sometimes heavy-handed manner. Now that the UDF has been deprived of that absolute majority, it will be pressured to govern in a way that relies more on consensus building and compromise.

## INCLUSION

Bulgaria is faced with two overarching inclusion problems:

- A large segment of the population displays a **tendency to wait for the authorities to take charge**, and appears to believe that it is the government's responsibility to see to it that people are taken care of.
- There is **growing political apathy and disengagement from politics**. Large portions of the Bulgarian public have become thoroughly disillusioned with the way government and politics operate. They do not feel represented by political parties. They believe that politicians are driven exclusively by personal and/or petty partisan interests, and feel powerless to influence governmental decisions that affect their lives. Feeding into this dangerous disaffection from public life is a declining level of trust in political institutions. People do not view themselves as constant participants in a democratic process. Their participation in public life tends to be limited to voting every four years (and voter turnout declined consistently throughout the 1990s), as well as to occasional outbursts of popular protest that tend to evaporate as rapidly as they have manifested themselves.

In addition to these overarching inclusion issues, **three sub-groups of the population – Roma, Bulgarian Turks, and women – face significant barriers to meaningful participation in public life**. While it is true that the primary problems faced by Roma and Bulgarian Turks are socioeconomic in nature (and, in that respect, are not best addressed through a democracy program), these ethnic minorities also face specific political participation hurdles that should be kept in mind when designing the strategy.

**Roma**, which are estimated to comprise between six and seven percent of the population, represent the most marginalized and excluded segment of the population. Living on the edges of society, they are far less politicized than Bulgarian Turks are. Unlike the latter, they do not have a powerful political party that can articulate their interests, and they are thoroughly under-represented in all institutions of government, from the local to the national level. In several critical respects, they still are not integrated into modern political and economic life.

Roma suffer from inadequate education, quasi-exclusion from the labor market, and a lack of professional opportunities. Strikingly, many of the problems they face are worsening. For instance, a decreasing percentage of Roma hold jobs, a declining proportion of their children attend school, and the unemployment rate for Roma reaches 90 percent in some regions. Appalling housing conditions and health care, combined with abysmal levels of educational opportunities and achievement, suggest that it will take time, political commitment, and extensive resources before the situation of the Roma can improve significantly.



According to the most recent annual report of the Bulgarian Helsinki Committee (*Human Rights in Bulgaria in 2000*, published in March 2001), Roma continue to be subjected to discrimination and societal violence by both private citizens and groups. The report also notes that the most drastic violations of human rights are usually committed against Roma. Numerous surveys and studies have shown that Roma are far more likely than other Bulgarians to go through criminal proceedings without a lawyer, to be victim of physical abuse during detention, and, more generally, to face ill-treatment following their arrest. During several interviews, the team was told that Roma suffer disproportionately from the dysfunction of the judicial system because petty crime is far more consistently and severely punished than official corruption or criminal activities by those with political connections.

Improving the situation of the Roma has become a serious issue under EU accession talks. The EU is investing heavily in Roma issues, in particular in an effort to improve literacy and access to basic infrastructure in that community. The EU also has sought to sensitize the Bulgarian authorities to the problems faced by the Roma, and to enhance awareness of the extent to which these problems represent a major obstacle to national development. The EU also seeks to increase the capacity of Roma NGO and their ability to engage in joint effort with local authorities.

In response to EU pressure, the Government of Bulgaria adopted in 1999 a *Framework Programme for Equal Integration of Roma in Bulgaria Society*. However, the European Commission's 2000 Report on Bulgaria's Progress Towards Accession notes that "implementation of the programme has been progressing slowly." The report adds that more concrete measures need to be adopted, and more specific financial resources must be earmarked, to translate the programme's stated objectives into reality. Similarly, the recently released annual report of the Bulgarian Helsinki Committee contends that the framework programme "remained merely a piece of paper throughout 2000. No actions were taken for its implementation, despite the terms set down in it, aside from the appointment of a number of individual Roma as experts in the regional administration... No headway was made in the encouragement of Roma culture or in the study of the Romany language at school." Still, the process of European accession will continue to put pressure on the Bulgarian authorities to display a greater understanding of the need to increase political participation by, and improve socioeconomic conditions in, the Roma community.

By comparison with the Roma, **Bulgarian Turks** (who number about 650,000 people) are reasonably well integrated into society and political life. Right after the fall of communism, they established their own party (the MRF) and used it to advance the interests of their community. They were quite successful in this endeavor, and whereas ten years ago the demand for a Turkish minister or even a Deputy Prime Minister would have created a public outcry, it is now seen as a legitimate request. Turkish turnout in elections significantly exceeds the Bulgarian average. Negative stereotyping of Bulgarian Turks has receded markedly over the past decade, and it no longer represents a significant problem. In general, Bulgarian Turks do not suffer from open ethnic discrimination, and neither do they blame the ethnic Bulgarian majority for the attempt at forced assimilation conducted by Zhivkov's communist regime in 1984-85.

Bulgarian Turks are free to practice their religion (they represent slightly over half of Bulgaria's Muslim population, estimated at 1.2 million people). Numerous mosques have been rehabilitated

over the past ten years, and many new ones have been built. Several dynamic cultural associations can be found in the community, and their activities are much less likely than only five years ago to be denounced as an attack on national unity. Turkish Bulgarian children can study Turkish and learn about Islam in schools. Several Turkish-language radio programs address the specific needs and aspirations of Bulgaria's Turkish community, and a brief Turkish-language news program was introduced on Bulgarian National Television in 2000.

Still, Bulgarian Turks also face some inclusion problems. First, they are under-represented in the higher echelons of the civil service – from ministries through regional governors' offices – as well as in the police, the army, and the judiciary. Second, many of them, especially among the educated youth, do not feel adequately represented by the MRF and by Bulgarian Turkish politicians. The MRF leadership remains paternalistic. The party, which is still centered on the personality of its leader, does not operate in a democratic manner. Consequently, there appears to be a disconnect between Turkish leaders and a newer generation of better educated Bulgarian Turks who do not feel that their aspirations and general outlook are given adequate representation. Several observers we interviewed suggested that the MRF faces the threat of becoming increasingly cut off from its natural base and constituency.

Deteriorating socioeconomic conditions in the Turkish community also raises the specter that it may become increasingly disaffected from the current political order. A majority of Bulgarian Turks live in regions with poorly developed infrastructure, and those areas also have been disproportionately hard hit by economic restructuring. The level of unemployment among Bulgarian Turks is much higher than the national average. Bulgarian Turks tend to blame the authorities for this situation. Many of them believe that the government has not made a genuine, sustained effort to direct public and private investment into their regions. One prominent Bulgarian Turkish politician told the team that while his community has shown patience as its economic situation has deteriorated, and while its moderation has been largely responsible for Bulgaria's much vaunted "ethnic model," the authorities should not expect this attitude to last forever if socioeconomic conditions do not improve among Bulgarian Turks. This person observed that minorities have borne a disproportionate share of the costs associated with the country's economic transition, and that improvements in the economic well being of these communities must take place to avoid rising political disaffection among them.

**Women** suffer from low, and in several areas decreasing, levels of participation in the country's political life and institutions. They are under-represented in both elected and appointed positions of power in the government. Only a handful of them occupy high-ranking positions in ministries, and only two out of a total of 28 regional governors are women. The number of women in parliament decreased at a steady pace throughout the 1990s. In the 1997-2001 legislature, only 11 percent of MPs (26 out of 240) were women. Furthermore, many women activists complain that these 26 MPs were not forceful or effective enough in advancing women's issues in parliament. Few women are nominated on party lists, and when they are their names are so low on the party list that they have little if any chance of getting elected. Only 23.5 percent of seats on municipal councils are held by women, who hold only 13 percent of mayoral posts.

The decline in women's presence in political decision-making circles is particularly worrisome in light of the serious problems that continue to confront Bulgarian women. Most prominent among these is domestic violence. Surveys and polls suggest that one woman out of four may

have been subjected to domestic violence, and that one in three of these victims may have received a serious physical injury. Data for 1999 indicate that in Sofia alone eighteen women were beaten to death. In a representative survey carried out in May 2000 by the Bulgarian Gender Research Foundation, 58 percent of the respondents knew of women who were being physically ill-treated by their husbands, and 32 percent reported that the women affected had needed medical aid following their assault.

These statistics are all the more frightening considering that, because of their financial dependence on their husbands, only a small percentage of women who have been victim of domestic violence actually press charges. To make matters worse, there are no specific provisions in the law to punish perpetrators of domestic violence. In many past instances when the police intervened to protect a woman victim of domestic violence, the policemen involved were subsequently and successfully sued by the husband. Such incidents naturally create strong disincentives for the police to fight domestic violence. Moreover, though some shelters for women victims of violence were established over the years, many if not most of them have ceased to function. Those that still operate consist of very rudimentary structures that provide only for emergency assistance, but do not offer legal aid for the victims.

Gender-based discrimination in the labor market and the workplace is also a problem. Women are insufficiently represented in business circles, and the positions they occupy do not reflect their comparatively high levels of education. There are very few women in managerial positions, while women active in the labor force are disproportionately represented among holders of low-paid manufacturing jobs. Though the law provides for equal pay for equal work, in practice men often receive preferential treatment in hiring and promotion. Women also face much higher unemployment rates, and they have been hit disproportionately by the transition away from a system that guaranteed (officially at least) full employment. An Equal Opportunity Law was approved by the Council of Ministers, but too late to be submitted to parliament before the latter's term expired in April 2001. It probably will be passed early on during the next parliament's term, but the extent to which it will be actually implemented will need to be closely monitored.

Because of the limited representation of women in political and governmental decision-making circles, these issues, as well as those mentioned earlier related to domestic violence and the existence of a strong societal resistance to genuine gender equality, have received insufficient political attention. Furthermore, neither the print nor the electronic media have done an adequate job at reporting on these issues. Consequently, much remains to be done to raise public awareness of the seriousness of the problems that confront women in Bulgaria.

## **RULE OF LAW**

Rule of law is highly problematic in Bulgaria. Indeed, several of our informants observed that problems in this area have worsened in the past several years, and polls indicate that approval rates for the judiciary never exceed 20 percent. "Our society does not believe that justice is rendered" was how one of the persons we interviewed summarized feelings that seem to be widespread. Another, reflecting another largely shared opinion, pointed out that "no one should

expect real protection from the courts ... When one turns to the courts in search of protection, one can easily become a victim [of the judicial system's dysfunction].”

There seems to be a consensus among donors that **Bulgaria's deficiencies in the rule of law area represent the country's most outstanding democracy-related problem**. In its 1999 regular report on Bulgaria's progress toward accession, the European Commission had noted that further efforts were called for to strengthen the rule of law, and that particulate attention needed to be paid to the fight against corruption and improving the functioning of the judicial system. In its 2000 report, the Commission concludes that ‘very little has been done to upgrade the judiciary, which remains weak ... corruption continues to be a very serious problem ... [and] major efforts are needed to develop a strong, independent, effective and professional judicial system.”

When compared with the significant strides made in the consensus and competition areas, continued deficiencies in the rule of law – indeed the perception of a steady erosion in the extent to which laws are enforced and crime and corruption fought – appear even more striking. This situation impacts negatively on Bulgaria's political and economic development prospects in several respects:

- A. It feeds a distrust of institutions in general and the government in particular;
- B. It hampers economic development, as businesses have little confidence that contracts can be enforced (the inability of courts to enforce claims deters domestic and foreign investment, and results in banks requiring extremely high collateral for loans);
- C. It raises questions about Bulgaria's ability to meet European rule of law standards, and, therefore, stands in the way of the country's rapid and smooth accession into Europe.

**At the heart of the problem lies the widespread perception that the judicial system is not functioning properly:**

- Legal proceedings can drag on for years. This is due in part to the existence of a significant backlog of cases, in part to a system of appeals under which a case can be heard de novo as many as five to seven times, and in part to a lack of financial and human resources throughout the judicial system. The average case takes three to five years to go through the courts. And in perhaps as many as 70 percent of cases, even after the court has rendered a decision, the ruling is not enforced until an administrative judge intervenes (for instance, that is almost always true in cases that involve alimony payments).
- There is a general belief that the judicial system suffers from excessive political interference – meaning in particular that those with political connections can avoid prosecution, and that those in power can use the judicial system to put pressure on their political enemies. People believe that laws are not being enforced – or, at least, that they are enforced extremely unevenly. On numerous occasions, the team was told that only petty crime is regularly and severely punished, and that, consequently, the most vulnerable in society bear the brunt of legal proceedings. By contrast, those in position

of power and authority are seen as rarely held liable for using their public office for private gain. The dominant perception seems to be that the well connected know that they can break the law and get away with it. Similarly, people have come to suspect that court decisions are politically motivated. Significantly, for instance, when in April 2001 the courts refused to register King Simeon's party for the upcoming parliamentary elections (on the grounds that the statutes of the party did not meet the legal prerequisites), large segments of the public almost instinctively searched for political explanations of the decision. Few were ready to believe that there were genuine, legitimate legal reasons behind the decision.

- Many practitioners told us that they believe corruption within the judicial system to be widespread. Though evidence is hard to come by, the pervasive nature of such rumors undermine the credibility of the judicial system.

In addition to the problems that can be traced back to the internal functioning of the judicial system, there is a widespread perception that both petty corruption and corruption in high places are rampant, and that the government has been unwilling or unable to root them out. Studies and surveys suggest that corruption is particularly widespread in the police, the health system (bribes representing several times the average monthly salary are often required to schedule an operation in what is supposedly a free health care system), and among customs officials. As was mentioned on several occasions, the privatization process has been marked by a lack of transparency and the use of political connections for private gain.

While public awareness of corruption has been raised in the past several years, and while the population's tolerance of corruption has been correspondingly lowered, few specific steps and no long-term policy have been adopted to eliminate the problem.

There also continues to be problems with respect to law enforcement bodies and mechanisms. Excessive use of physical force and firearms by law enforcement officials remains a major concern, especially as it relates to the Roma. Illegal wiretapping by the police, including for political purposes, continues to be a problem as well.

Finally, there is a growing sense of personal insecurity due to the perception of rising crime – both petty street crime and organized criminal activities. That perception may exceed reality. It may reflect the fact that, until 1990, crime-related information and statistics were not released to the public. Consequently, crime was a more serious problem than people usually assumed. Since 1990, furthermore, sensationalism in the media has magnified the exposure given to criminal incidents. Still, criminality does appear to be a problem that weighs heavily on people's minds, and it should be carefully monitored.

The **roots** of the problems that have just been described can be traced back to several inter-related factors.

(1) Most importantly perhaps, **there appears to be insufficient political will to reform the judicial system and combat corruption.** While officials occasionally have been dismissed from their positions because of allegations of corruption, few have been indicted or prosecuted. Despite its obvious shortcomings – or perhaps precisely because of them – the system benefits

powerful vested interests that have little to gain, and a lot to lose, from being deprived of their ability to influence judicial proceedings.

**(2) The very manner in which the judicial system is organized is highly problematic.**

According to the constitution, the judicial branch of the government consists of three separate, independent components: judges, prosecutors, and investigators. Unfortunately, there has been a lack of coordination and cooperation between these various components, which often work at cross-purposes with each other (in part because of the personal rivalries pitting their respective heads against each other). There seems to be a general consensus that the prosecutors should be part of the executive branch, and the investigators part of the police (although the prosecutors are also vying for control of the investigators). All experts with whom we spoke seemed to agree that the dysfunction found within the judicial system will not be fully remedied until the system itself is reorganized.

**(3) There are serious problems associated with the Prosecutors Office:**

- There are no checks on the Prosecutor General (PG), who is accountable to no one. The current PG is widely denounced for having abused his authority and the extensive immunity from which he benefits (and which only he is empowered to lift). According to several sources, he has launched politically-motivated investigations to retaliate against journalists who have criticized him or his office's operations.
- Allegations that the executive branch wields undue influence over the judiciary are reflected in the Prosecutors Office, which has been slow to indict government officials accused of corruption, thereby arousing suspicions.
- The Prosecutors Office is characterized by a particularly pronounced lack of transparency in its operations. It is also organized very hierarchically. Consequently, individual prosecutors lack independent authority, and are vulnerable to direct and indirect pressures by the PG.

**(4) The judicial system is under-funded and lacks resources.** Less than one percent of the national budget goes to the judicial system, and 80 percent of that allocation is absorbed by wages. This leaves little to be spent on the much-needed upgrading and modernization of courts and other components of the system.

**(5) There are serious human-resources problems – in particular a shortage of qualified staff – within the judicial system.**

- Legal education is widely seen as inadequate, including and perhaps especially in the country's dominant law department at Sofia University. The curriculum relies excessively on rote memorization and does not develop the capacity for legal reasoning. Consequently, as they embark on their career, judges and lawyers who have just graduated are unprepared to discharge their functions effectively. Even more worrisome, there appears to be no strategy for reforming and modernizing the legal education system. The faculty in the law departments (especially in Sofia) tends to be

very conservative and fails to appreciate and/or support the need for a thorough reform of the judicial system.

- Because judges are not specialized, their capacity to deal with technical issues, like commercial disputes, is limited, at best.
- Judges are paid very little, which makes them susceptible to corruption, and their social standing is relatively low. Working conditions for both judges and their administrative staff are generally poor. For instance, court buildings are often too small, and judges often share offices. This situation, combined with judges' insufficient pay and the fact that they are held in relatively low public esteem, contribute to low morale within the profession, and makes it hard to maintain the most qualified personnel. The best in the system often leave to pursue careers in the private sector.
- Judges are overworked, and cannot take as much time researching individual cases as they would like – a situation that can have a negative effects on the quality of their rulings.
- There is no clear career path for judges. Criteria specifying how one rises in the hierarchy, or the standards according to which judges' performance is evaluated, are not spelled out clearly. This situation feeds the perception that political connections are more important in determining promotions and career patterns than job performance and qualifications.
- Both the Investigators Office and the police need training in investigative techniques. Courts often cannot convict (and are subsequently blamed for failing to put behind bars those who have committed crimes) because investigators brought them insufficient evidence.
- The Supreme Judicial Council (SJC) – which is in charge of overseeing the career of magistrates, and of hiring, promotion, retirement, and disciplining within the profession – needs significant institutional strengthening. As currently constituted, it lacks the capacity (staff and financial resources) to discharge adequately the extensive responsibility vested in it.

(6) **Those in the legal profession have been hard-pressed to keep up with the enormous speed and scope of the changes introduced in Bulgaria's legal system since 1990** (the 1997-2001 parliament alone passed 631 laws). Not only has the transition to democracy called for a complete revamping of laws, but so has the need to make sure that Bulgarian legislation conforms to European standards. This (still on-going) process of harmonization has placed enormous pressures on judges and other legal professionals to keep abreast of regular changes in legislation. This is particularly true considering that, in Bulgaria, a law becomes binding from the moment it is passed by parliament. Consequently, the standards by which judges must render decisions can be significantly altered overnight, and little has been done to make it easier for them to stay up-to-date on the latest legislation. The scarcity of in-service training opportunities,

and the fact that judges are not required to receive regular professional training, is a serious problem that must be addressed.

(7) **Many of the laws passed by parliament have proven to be inadequately worded or ill considered, and have had to be amended shortly after their passing.** This reflects, in part, the fact that only a fraction of all MPs (fewer than 15 percent in the outgoing parliament) have had any significant legal training or experience. To make matters worse, neither parliament nor government has made a systematic effort to consult with legal experts when drafting or before voting on legislation.

## GOVERNANCE

Like rule of law, governance is highly problematic in Bulgaria. To facilitate the presentation of the analysis, this section will distinguish between the capacity of state institutions to deliver good governance, before examining the performance of key societal institutions – political parties, NGOs, and the media – in that same area.

### State Institutions and Governance

Constraints on the capacity of state institutions to deliver good governance can be analyzed under three separate headings:

- (a) Systemic obstacles, found at all levels of the government bureaucracy, and reflecting the very manner in which the state is organized;
- (b) Obstacles to good governance that bear more specifically on the performance of central government institutions;
- (c) Constraints to good governance that affect local government institutions.

### Systemic Obstacles to Good Governance

At all levels of the bureaucracy (local, regional, and central), the **quality of public administration is inadequate, and there is still insufficient political will to improve it.** Bulgaria's fragile democracy has been built on an administration inherited from the old system and poorly prepared to enable the country to deal with the public policy problems that it now faces. This is a particularly serious issue in light of Bulgaria's need to meet certain public administration standards in order to qualify for accession into Europe. For instance, upon accession to the European Union (scheduled for 2007), Bulgaria will be expected to send an estimated 400 highly trained senior administrators to Brussels. Where it will find them is not clear, considering that, at present, the entire public administration probably does not have that many of them.

The poor quality of Bulgaria's public administration already has cost the country dearly. In 2000 alone, the EU Mission in Sofia reportedly sent back to Brussels some 40 million Euros after it



became clear that Bulgaria's public administration lacked the capacity to implement the projects for which these funds had been earmarked.

The "carrot" of European accession represents the greatest incentive for Bulgarian decision-makers to upgrade the quality of their public administration. However, it would not be safe to assume that external pressure alone will be sufficient to bring about the improvements that need to take place. According to all the donors we interviewed, as well as to several local analysts, Bulgarian decision-makers on the whole do not yet fully grasp how critical it is for them to develop a more professional civil service, especially as the country readies itself for membership into the EU. These decision-makers have failed to think strategically about the need to develop administrative capacity. They think of admission into EU and NATO as tickets to progress, and as metaphors for a better life, but do not necessarily understand what admission into these bodies will mean in terms of new commitments and responsibilities – including the need to improve administrative capacity.

However, at least two seasoned observers of Bulgaria's policy-making apparatus told the team that, in the past year, they have witnessed among some senior decision-makers a growing appreciation of the need for public administration reform. These observers pointed out that, at least among some at the highest levels of government, the realization is finally beginning to sink in that the quality of public administration will have to improve dramatically in the next few years if the country is to meet the challenge of European accession. If that is true, it may provide donors interested in supporting administrative reform with limited openings that did not exist earlier. At the very least, stronger and more consistently delivered messages by the donor community regarding the pressing need for a comprehensive reform and modernization of Bulgaria's public administration may help strengthen and give shape to a nascent and still incipient, commitment to civil service reform.

**Administrative regulations, which are written by the staff in the executive bureaucracy, often subvert or distort the intent of the laws passed by parliament.** This situation often reflects the fact that regulations are written by individuals who lack the required level of skills to discharge the functions with which they are entrusted.

**Most government institutions operate in an insufficiently transparent manner, and suffer from excessive politicization in matters of hiring and promotion.** For instance, there are no clear achievement-related criteria to determine how individuals are selected for key governmental positions. From the municipal level to the national arena, party affiliations and political connections are often far more decisive in personnel matters than professional competence and expertise.

The quality of governance also suffers from the **excessive centralization of government**. This feature has long characterized Bulgaria, and it certainly did not disappear with the transition from a BSP-dominated central government to an UDF-dominated one in 1997. As discussed earlier, local government continues to suffer from its lack of control over local finances. There is some hope the situation might change, since the Ministry of Finance appears to display a growing appreciation of the need for fiscal decentralization. Still, while the process of fiscal decentralization may have begun already, it will take a great deal of time before it runs its course

and significantly alters the current system. Besides, the extent of the political will to decentralize fiscal responsibilities remains a matter of debate. Neither is it clear that local government is generally ready for such decentralization. Some analysts argue that, for all the complaints one hears from local officials about the extent of their municipalities' financial dependence on the central government, these officials are not ready for the additional responsibilities that would come with greater fiscal autonomy, and they are not unhappy about being able to blame the central government for what goes wrong at the local level.

**The relationship between the various layers of government – local, regional, and national – is often adversarial and not conducive to the effective delivery of public services.** Government being highly politicized in Bulgaria, the relationship between municipalities and the central government can be negatively affected by partisan considerations. For instance, under the UDF-controlled government in place between 1997 and June 2001, a city headed by a BSP mayor was far more likely to have a difficult relationship with the central government than one headed by a UDF mayor (see the section below dealing with the constraints on local governance).

The re-establishment of a regional level of government, following the UDF electoral victory in 1997, has introduced yet more confusion and problems. The country is now divided into 28 regions, each of which is headed by a regional governor. Appointed by the Prime Minister, regional governors are mostly responsible for designing and implementing regional economic development plans consistent with national priorities. Predictably, these governors are seen – and see themselves – as representatives not only of the central government, but also of the leadership of the party that may control the central government. Predictably as well, they are selected according to political criteria far more than competence and professional achievement.

Since the local population does not elect them, they do not feel a great need to be responsive to it, and their primary loyalty instead is to the political leadership that appointed them. But while the local population and locally elected officials have no significant influence over them, regional governors are empowered to veto any and all of the decisions of municipal councils, if they deem these decisions to be in contradiction with existing laws and regulations. Thus, regional governors exercise de facto political control over municipalities. Few of them appear to have made a real effort to develop a popular base of support for themselves at the local level. In the process of identifying priorities for regional development, they rarely have adopted a particularly participatory approach. Meanwhile, they often have taken over some of the functions that normally would be prerogatives of the local government in the area of economic development. Overall, regional governors are seen as instruments through which the central government can supervise developments within municipalities. They do not function as mechanisms for integrating local input into national decision-making processes.

Finally, there has been excessive turnover among regional governors. In several regions, governors have been changed almost every year on an average. It is believed that of the 28 regional governors who were originally appointed in 1998, no more than half-a-dozen are still occupying the office for which they were initially chosen. Such constant changes in personnel have taken a heavy toll on the capacity of regional governors to discharge their functions in an

effective manner, and in a way that enables them to earn the trust and confidence of the people they are supposed to serve.

Most of the independent analysts with whom we spoke believed that while an intermediate layer of government between the local and the central levels is highly desirable, the manner in which regional governors are selected, their prerogatives and their relationship with political parties, the central government, the local government, and their surrounding environment need to be significantly modified if that office is to make a greater contribution toward good governance.

### *Constraints on Good Governance by Central Government Institutions*

In addition to the systemic problems that have just been examined, and which are pervasive throughout the bureaucracy, **the central government faces a number of specific governance-related problems.** For one, many government ministries and public agencies display top-heavy management and a tendency toward micro-management. They also lack qualified senior-level management staff (below the Deputy Minister level), capable of running departments.

The senior echelons of the civil service, as well as public agencies such as the National Radio and Television Council (NRTC), are particularly affected by the excessive politicization mentioned earlier. Appointments in them frequently reflect political considerations more than competence.

**Parliament**, for its part, has displayed a number of weaknesses that have stood in the way of its ability to contribute to good governance:

- Excessive factionalism, confrontation, and petty political bickering hinder parliament's ability to contribute to effective public policy making. Political debates in the legislature often lack substance. They are seen as games of individual interests and as struggles for personal and political advantage, characterized by grandstanding and statements that are made purely for public consumption.
- MPs have weak links to the constituents they are supposed to represent (see below on political parties). In general, MPs are seen as far more accountable and receptive to their party leaderships than to the public they should represent. Consequently, MPs are not particularly interested in finding solutions to the problems facing local government. In one extreme case, the team was told of an UDF-affiliated MP from Varna who had privately lobbied the Ministry of Finance against increasing the budget of his municipality because the latter's mayor was affiliated with the BSP.
- Parliament does not operate in a particularly transparent manner. All committee meetings are closed, and so are many floor debates. The public is neither generally aware of nor interested in what goes on within parliament.
- Parliament is insufficiently open to its environment and lacks formal links to societal organizations (media, professional associations, think tanks and civil society groups). Though MPs sometimes solicit the input of individuals and groups outside parliament, they do so on an informal, ad hoc basis, and on the basis of their own personal

connections and preferences. No institutionalized mechanisms and procedures exist to make sure that parliament consults broadly or takes advantage of the expertise available outside its walls. This contributes to poorly considered and written laws that have unintended consequences and need to be amended shortly after they are adopted.

- Parliament's capacity to exercise genuine oversight over the executive branch has been limited. Criticisms of the executive branch lack substance and tend to reflect partisan stances. Such a situation impacts negatively on parliament's credibility and its image in the population. Between 1997 and 2001, for instance, both the BSP and the MRF should have proven far more effective than they were at forcing the UDF-dominated government to account for its decisions and policies. Instead, by adopting purely partisan stances in parliament and elsewhere, these two parties often ended up discrediting themselves in the eyes of the public.

### *Constraints on Good Governance by Local Government Institutions*

Local government, too, is significantly constrained in its ability to deliver good governance. For one, municipal councils are far too large, which creates or compounds governability problems. But most importantly perhaps, how effectively local government operates is far too heavily affected by political considerations. Critical in particular is the political relationship that the mayor has with his/her municipal council; with the regional governor; with the central government; and with his/her political party.

- While the population directly elects mayors, municipal councils are chosen according to a system of proportional representation with party lists. Consequently, a mayor can face a municipal council controlled by a political party different from his or hers. When that situation prevails – especially when the mayor is BSP-affiliated and the municipal council features a UDF majority, or vice versa – there is a strong tendency toward partisan wrangling and gridlock. This process can be extremely divisive and stands in the way of local government's ability to discharge its functions.
- Similarly, when the mayor and the regional governor are affiliated with rival political parties, they often are at constant loggerheads with each other. Since regional governors are appointed by the central government, the relationship between them and mayors is largely a function of the mayor's political affiliation. Since 1997, regional governors have been UDF-affiliated, and where the municipality has been headed by a BSP mayor, recurrent tension and conflict between mayor and regional governor has thwarted effective policy-making and implementation at the local level. The team was told repeatedly that rivalries between mayors and their regional governors usually reflect petty contests for local influence and prestige more than they stem from political and ideological disagreements.
- The political affiliation of a mayor weighs heavily on the amount of attention his or her municipality receives from the central government. Certainly, since the UDF's 1997 electoral victory, municipalities headed by a BSP Mayor have not received nearly as much attention from the central government as municipalities headed by a UDF mayor. For instance, since the municipal elections of October 1999, the Vratsa

municipality – 110,000 inhabitants and the largest city in the northern region – has been visited by only one Deputy Minister, for one half-hour. Since those same elections, the UDF mayor of Montana has played host to a long list of ministers – even though Montana only has 65,000 inhabitants and is located a mere one hour away from Vratsa, and despite the fact that anyone travelling from Sofia to Montana by car must go through Vratsa. Just as the amount of subsidies and support a municipality receives from the central government is often significantly influenced by the “color” (“red” or “blue”, i.e., BSP- or UDF-affiliated) of its mayor, that same municipality is more likely to see its finances audited by central government officials if its mayor belongs to a political party opposed to that which controls the central government.

- Mayors are beholden to the parties with which they are affiliated. Consequently, a mayor’s decisions are more likely to reflect the preferences of his/her party’s leadership than those of the municipal council are or those of the local population are. Mayors rarely display any true independence of mind and action relative to their party leadership. They are widely seen as toeing the party line, and it is widely assumed that their decisions reflect first and foremost partisan considerations. It is significant that, in this highly politicized environment, what one generally wants to know first about a municipality is whether it is “red” (with a BSP mayor) or “blue” (with a UDF mayor).

### **Societal Institutions and Governance**

The manner in which the country’s main societal institutions – political parties, the media, and NGOs – operate is characterized by an overall lack of transparency and accountability. There is a widespread perception that these institutions are generally ineffective at representing the public’s needs and aspirations, and that they tend to be driven instead by personal or narrowly partisan interests. Finally, the capacity of these institutions to discharge the functions with which they are traditionally entrusted is quite limited as well. In short, societal institutions perform poorly in all major areas: accountability, transparency, effectiveness, and representative capacity. These shortcomings largely account for the widespread disengagement from public life and growing political apathy that were discussed in the inclusion section.

**Political parties** are widely criticized for what is seen as their failure to aggregate interests and articulate citizens’ demands. Because of the hierarchical and centralized manner in which they operate, they are not very responsive to the input of rank-and-file members, let alone of the population at large. The national leadership usually sets the tone for party branches at the local level, and determines the composition of party lists, including for municipal elections. In picking candidates to parliament, parties tend to select fewer individuals who enjoy a local base of support than individuals known to be loyal to the national leadership. Party discipline is very strong, and those rare members who occasionally take a stand against the wishes of the party leadership are usually made to pay for doing so. The extent to which parties and their shortcomings are responsible for the widespread disaffection from politics that was examined earlier can hardly be overstated.

Like political parties, the **media** are characterized by a lack of transparency in their sources of funding. This fuels allegations that many elements in the print and electronic media are

controlled by shady interests, and/or are being manipulated by outside sources (rumors of Russian influence on the media being particularly strong). The media is widely seen as an instrument that politicians and private interests use to discredit opponents and competitors. There is a widespread perception that media stories can be bought and manufactured to settle personal and political disputes. In fact, even within the UDF, competing factions and politicians have used the media to undermine each other. In short, the credibility of the media is seriously undermined by the knowledge that its behavior is widely affected by both political influence and private interests, some of which are believed to be tied to organized crime (of both domestic and foreign origin).

In the areas of accountability, transparency, and overall effectiveness, **NGOs**, too, suffer from significant weaknesses. Bulgarian civil society did not grow naturally, but was created, in a largely artificial manner, through massive infusions of funding from outside sources. “Civil society in Bulgaria is a business,” said one NGO leader with whom the team spoke, while another noted that “we have built civil society by theories and textbooks inspired from foreign experiences.” Not only have NGOs been unable to diminish their dependence on such foreign funding, but also, ten years after that funding began, the dominant perception is that, on the whole, NGOs have been unable to develop genuine constituencies for themselves. On several occasions, the team was told that NGOs often exist less to serve the needs of the specific constituencies on whose behalf they claim to speak than to design or implement donor-funded projects. We were also told repeatedly that communities do not usually appreciate the value of the work conducted by NGOs – they do not see the benefits that accrue to the community as a result of NGO activity.

Their primary audience consists less of domestic constituencies than it is represented by the donor community. Local observers of civil society, as well as many NGO activists themselves, repeatedly described NGOs as entities created and kept alive by donor funding. There are of course exceptions to this rule but, on the whole, NGO influence appears to stem less from grassroots support than from their ability to write grant proposals for donors. One wonders how much of Bulgaria’s civil society would survive a sudden withdrawal of foreign funding. As mentioned earlier, insufficient coalition building and linkages among NGOs, combined with deep divisions in that sector, also hinders civil society development.

The public distrust of institutions in general also affect public perceptions of NGOs. NGOs are widely seen as vehicles for private and partisan interests. Many of them are indeed tied to specific political parties and agendas. Service-oriented NGOs, for their part, have not yet demonstrated that, on the whole, they can be more effective than the state at meeting public needs. Their ability to pressure the authorities into taking into account community aspirations and grassroots feelings is uneven and, on the whole, limited. Whether or not these NGOs would be ready to fill in the vacuum that would be created by a further disengagement of the state from social and economic areas is a matter of debate.

Limited as well is the capacity of NGOs to engage in joint projects with local government. Furthermore, several of those we interviewed suggested that when NGOs succeed in engaging local authorities in joint endeavors, they become more disconnected from their base. Thus, what they gain in one area (the ability to influence decision-makers) they lose in another (ties to the

community). Some NGOs manage to avoid these pitfalls, but, on the whole, they limit civil society's contribution to democratic governance.

## PART TWO

### PROGRAMMATIC RECOMMENDATIONS

This section outlines the programmatic recommendations that flow from the analysis conducted thus far. As that analysis demonstrated, the challenges to the consolidation of democracy in Bulgaria lie in three main areas: rule of law (ROL), governance, and inclusion.

- With respect to ROL, the major problems relate to the dysfunction of the judicial system and corruption.
- Regarding governance, the overarching issue is the lack of transparency and accountability displayed by both governmental and societal institutions. Other critical problems include the excessively centralized nature of governmental authority and deficiencies in the capacity of the state and societal institutions to serve the needs of the population.
- As for inclusion-related challenges, they consist primarily of a growing political apathy and alienation from the political process, as well as specific constraints affecting ethnic minorities and women.

Drawing on those conclusions, **this section proposes a D/G strategy built around two main axes:**

- **A ROL axis, with both supply- and demand-side activities aimed at improving the functioning of the judicial system and combating corruption** (anti-corruption activities being included as well in the governance axis below). In their design and implementation, judicial reform activities should also seek to tackle the inclusion problems that affect women and ethnic minorities, especially Roma.
- **A governance axis aimed at (a) increasing transparency and accountability in governmental and political processes, and (b) facilitating the decentralization of governmental authority.** This axis should consist of three major programs directed at political parties, the fight against corruption, and support for local government/decentralization. Supporting these long-term programs should be two smaller, shorter-term programs targeted at parliament and the media – as well as, possibly, a separate program working with NGOs, though this was the one issue on which the team was internally divided.

**We believe that the general inclusion issues that were identified earlier – the growing disengagement from politics and the tendency for large segments of the population to wait for the authorities to take charge – can be best addressed by meeting the ROL and governance goals discussed above.** After all, the growing disaffection from public life and declining faith in political and governmental institutions reflect primarily the widespread perception that laws are not enforced properly; that official corruption is tolerated; that political and governmental institutions do not operate in a transparent and accountable manner, and that



they poorly represent the people's interests. Consequently, as these problems are alleviated, political alienation and disaffection should become less pronounced. Better functioning and, therefore, more credible judicial, political, and governmental institutions should produce a more active citizenry, which in turn should foster greater societal demands for continuing improvements in ROL and governance.

## **RULE OF LAW**

Considering the magnitude of the ROL challenges that confront Bulgaria, as well as the significant period of time typically required to overcome such challenges, the ROL component of the proposed strategy should be seen as a long-term endeavor. One should not expect critical objectives in this area to be met before at least five to seven years have elapsed.

### **Supply-side Activities**

**1. Supply side activities should remain focused on the two areas on which the East-West Management Institute (EWMI) has concentrated: judicial training for judges through the Magistrates Training Center (MTC) and court administration.** Both the beneficiaries of these activities and outside observers had nothing but praise for the EWMI program, which addresses critical needs of the judicial system, as identified in Part One. One prominent Bulgarian analyst described the EWMI program as “the only successful judicial reform program in this country.” That program has proven itself, and is worthy of expanded support. It has been able to generate interest at the highest levels of the judicial system, thus belying the notion that ambivalence or insufficient political will by key actors represents an insurmountable obstacle to successful donor activities. For instance, it apparently was not easy to convince the Ministry of Justice (MOJ) that it stood to benefit from the program, but, progressively, that ministry came around and has played a supportive role with respect to the MTC. Similarly, it was significant that in the spring of 2001 the Chairman of the Supreme Court of Cassation visited some of the pilot courts in which the EWMI had undertaken automation projects and improvements in filing systems. The Supreme Judicial Council also agreed to EWMI assistance in a general assessment of its internal operations, with a view to identifying areas where improvements must take place. In short, the EWMI appears to be successful at moving from pilot projects to broader issues and at gaining the trust and confidence of key actors who can affect the fate of judicial reform in Bulgaria.

**2. With respect to judicial training, the primary emphasis should remain on judges – especially younger judges, as they are the ones who will shape the future of courts. Several reasons can be invoked for maintaining this focus:**

- Within the legal profession, judges may be those who are affected most negatively by the current system's dysfunction.
- Even though the EWMI, acting through the MTC, has accomplished a great deal in the area of continuing education for judges during the past couple of years, much more remains to be done. Especially in the early stages of their career, judges are often

unfamiliar with such basic elements of their profession as how to interview a witness, how to evaluate evidence or use DNA tests, how other judicial systems operate, etc.

- For reasons that were examined earlier, donors find it very difficult to engage the Prosecutors Office, including for training activities. Meanwhile, the future of the Investigators Office is unclear, as that office may soon disappear and investigators may be absorbed into the police. In short, involving both prosecutors and investigators in training activities faces special challenges.

- As the process of harmonizing Bulgarian legislation with European standards proceeds, the need for keeping judges informed of the content of new laws, and of amendments to existing laws, will continue to increase. Similarly, in light of the very general and imperfect training which students in law school receive, judges will continue to face high training needs in specialized areas of the law (e.g., banking law, real estate law, or inheritance law). Special mechanisms, such as workshops focused on one single theme, should be in place to facilitate continuous training.

3. Though judges should remain the focus of training activities, **the capacity of the MTC should be expanded to include training for prosecutors and investigators**, in particular to enhance their capacity to investigate and prosecute organized crime. Given the serious obstacles that stand in the way of such activities (see above), investments in this area ought to be small. For one, low political will within the Prosecutors Office means that relevant efforts targeted at that office would face a significant danger of failure. However, while these activities may be considered risky, they also could yield high returns. For instance, involving individual prosecutors in training activities might create a dynamic which, over time, could increase commitment to substantive reforms by that office. As for investigators, the fact that the future of their office is in question should not detract from the need for providing them with additional training in investigative techniques.

4. Whether training activities are directed at judges, investigators or prosecutors, their content should reflect the inclusion-related problems that were identified earlier. Consequently, **legal training should address the specific issues faced by women (for instance in the areas of family law and domestic violence) and minorities (unequal access to justice by the Roma community being a particularly salient question here).**

5. As noted earlier as well, the general public does not grasp how the judicial system works. This translates into widespread misunderstandings about where responsibilities in the system lie, why courts render the verdicts that they do, or the constraints under which judges and others in the legal profession operate. This situation must be remedied if the judicial system is to enhance its public image. Consequently, USAID/Sofia might look into **activities that would enhance public knowledge of the manner in which the judicial system is supposed to operate.**

- Some of the relevant activities under this heading could be carried out through the EWMI's court administration program. For instance, within court buildings, leaflets could be made available to explain to the users of those courts why courts are organized the way they are, what the rights of defendants are, what role a prosecutor plays, or how prosecutors, investigators and judges are supposed to relate to each other.

- The media, and other actors within the coalition for judicial reform discussed above, also ought to be tapped to serve this educational function.

**6. In light of persistent high needs in this area, we also recommend an expanded court administration program.** Continued support should be provided to improve case handling and tracking, to upgrade court filing systems, to automate archives, to facilitate access to court rulings, and to develop training for administrative staff. Courts that until now were not included in this program should be made to benefit from its activities. As in the case of judicial training, the needs in the area of court administration are vast, and are not near to being met.

One of several possible areas for expansion of court administration activities might be to facilitate the exchange of information about criminal records from one court to another. Under the current system, criminal records are kept in the district court of the region in which the criminal was born. Consequently, the ability of another court to access that information can suffer from significant delays. On-line computerization of, and connections between, criminal registries would go a long way toward remedying that problem and helping fight crime. Making it easier for courts to access each others' criminal records would increase both the speed of criminal procedures, and the likelihood that charges against those guilty of criminal activities will reflect the totality of their criminal records. Such objectives are particularly important considering that people's assessment of the overall performance of the judicial system is to a large extent a function of how effective that system is in combating crime.

**7.** ABA-CEELI's democracy-related activities in Bulgaria are quite extensive and varied. Inevitably, a small number of these activities appear to contribute to the ROL objectives that we have identified as critical. However, the bulk of ABA-CEELI's program appears to be only tangentially related to those objectives, and therefore should not be seen as a priority for continued funding.

**8.** Supply-side activities should also involve continued work with the Supreme Judicial Council (SJC) in order to increase its commitment to reform, both of the judicial system and of itself. As noted earlier, the SJC has expressed a desire to see how its internal operations and organization might be improved. In light of the SJC's key role in the judicial system, it is important to take advantage of this willingness.

### **Demand-side Activities**

Since the lack of political will to reform is one of the key reasons for the persistent and marked deficiencies within the judicial system, **a program priority should be to bring together those actors who have a keen interest in judicial reform, and to endeavor to turn these disparate actors into a cohesive force for change.** The objective should be to create a critical mass of people who understand the need for judicial reform; who can agree on the broad outlines of a viable judicial reform program; who can advocate and lobby effectively for that program; and who can monitor progress toward its implementation. As was shown in Part One, the roots of the judicial system's dysfunction can be traced back, in part, to the very manner in which that system is organized. Therefore, one of the objectives of the coalition we suggest here will be to agitate

for the constitutional changes that must take place if the judicial system is to become more effective and independent.

**This coalition should also include a focus on corruption.** It should emphasize the need for combating corruption within the judiciary and the importance of strengthening the capacity of other institutions to monitor and reduce corruption in their midst. It should identify, publicize and aim to generate a genuine public debate about specific mechanisms and structures (from new legislation and regulatory changes to the establishment of specific entities entrusted with fighting corruption) through which these goals might be attained. Such a focus on corruption would likely help the coalition for judicial reform gain momentum, public visibility and recognition, given that the pervasive nature and corroding impact of corruption is an issue that resonates with the population far more than the question of reforming the judicial system.

We are aware that what we propose here is in some ways reminiscent of the ill-fated Judicial Reform Initiative (JRI) launched in 1999. However, that initiative had suffered from a lack of coordination among its various participants, and, especially, from a failure to develop a clear, well thought-out strategy on how to gain broad acceptance among policy-makers for the changes that it proposed. The lessons to be drawn from this previous effort will have to be kept in mind when designing and implementing the strategy we are suggesting here.

Given that the issue of judicial reform does not seem to strike a chord with the general public, a broad-based coalition within the population at large is unlikely. And yet, there is no lack of committed individuals and organizations that can agitate for change.

- Many judges are growing impatient with the system in which they operate, and they are becoming less willing to tolerate its shortcomings. It is important to provide them with the support they deserve and that will help them fight the tendency toward demoralization.
- Similarly, some lawyers have begun to organize themselves to expose problems within the judicial system and/or to try to hold the bureaucracy accountable for its actions. At present, these initiatives remain disparate and ad hoc, but the individuals and groups from which they emanate should be encouraged.

In short, there is evidence of some stirrings for reform within the judicial profession. Consequently, donors with a coherent agenda for bringing about change would not operate in a vacuum. They would not lack goodwill and dedicated individuals ready to support their activities. More specifically, the nucleus around which the coalition for judicial reform might be built include:

- *The Bulgarian Judges Association (BJA) and PIOR (a Varna-based NGO, founded in 1994, which brings together judges supporting judicial reform).* In the past, both of these associations have been used as vehicles through which several judges have sought to assert themselves and develop greater independence for their profession. Of all the professional associations active in the judicial sector, they are widely seen as the most open to change.

- *Individual MPs who have shown genuine interest in judicial reform, as well as key members of the legal committee of parliament.* The presence of such members is essential, especially in light of the constitutional amendments and new legislation that will need to be adopted if the judicial system is to become more effective and independent.
- *Think tanks such as the Center for the Study of Democracy and the Center for Liberal Strategies.* Both organizations have a long-lasting interest in judicial reform.
- *Coalition 2000.* This umbrella organization, formed in March 1998, brings together Bulgarian NGOs, governmental institutions, and private sector representatives. It has played a critical role in raising general awareness of corruption and decreasing public tolerance of it. Its activities should now be refocused so as to step up pressures on both parliament and the executive bureaucracy to put in place specific laws, regulations and instruments to combat corruption.
- *Selected representatives of media organizations inclined to agitate for judicial reform.*
- *Chambers of commerce and other business associations,* because of their members' vested interest in speedier and more transparent and effective application of the laws regulating business transactions.

One might also consider involving other professional associations which display a less clear-cut commitment to judicial reform, but whose support nevertheless would be helpful. These associations include:

- *The Alliance for Legal Interaction (ALI),* which is seen by many reformers as insufficiently pro-active and too tied to status quo forces and interests within the Ministry of Justice (MOJ). Several of the analysts with whom we spoke suggested that the ALI is led by individuals who, in their official capacity as senior officials within the MOJ, have displayed too great a propensity to tolerate the existing shortcomings of the judicial system. Consequently, they do not see the ALI as a lever for reform. And yet, precisely because of its links to key decision-makers, the ALI might be a valuable partner.
- *The Union of Jurists (the Bar Association).* This association is little more than a dues-collecting entity that is not particularly effective in serving the needs of its members. And yet, though it is neither very active nor progressive, some of its younger members are, and the coalition for judicial reform might benefit from the involvement of those young attorneys in it.
- *The professional associations of prosecutors and investigators.*
- *The law departments of selected universities.* Precisely because the law departments tend to be conservative and status quo oriented, it is important that they be made to evolve in their ways and outlook. Identifying some of these departments' younger and more reform-oriented members, and progressively seeking to bring them into the alliance for judicial reform, would contribute to that alliance's long-term goals.

However, considering the weight of the inertia that such efforts would confront, progress in this area should be expected to be slow.

The Mission's efforts to nurture a coalition for judicial reform should also target other donors and be conducted in close cooperation with them. Key donors in Bulgaria – including the European Union and the World Bank – complained to the team that low commitment to judicial reform on the part of the Bulgarian authorities had thwarted their prior endeavors in that field. That may well be true, but it is also clear, after talking with a broad variety of Bulgarian actors, that USAID/Bulgaria enjoys special credibility in the country. It is seen as more coherent in its approach than other prominent donors are, and Bulgarian decision-makers may pay special attention to the messages it sends through its activities. USAID/Sofia is thus well equipped to play a catalyst role in judicial reform, and to help leverage donor resources in that field.

Finally, the demand-side activities of the ROL strategy proposed here should reflect a deliberate effort to address some of the inclusion-related challenges faced by women and ethnic minorities. Thus, among its goals, the coalition for judicial reform should include:

- Enhancing public awareness of the specific hurdles that women and ethnic minorities face when they come in contact with the judicial system (e.g., the absence of legislation dealing with the issue of domestic violence; the various disincentives that prevent effective prosecution of those guilty of domestic violence; or the fact that Roma are disproportionately affected by such practices as the denial of legal counsel and the excessive use of physical violence and firearms by law-enforcement authorities).
- Lobbying for the adoption of legislation to combat these phenomena, and closely monitoring and reporting the extent to which that legislation is actually implemented.

## GOVERNANCE

As was mentioned above, **the governance strategy which we recommend should be built around three main programs aimed at political parties, the fight against corruption (with a clear linkage to the anti-corruption component of the ROL program), and decentralization/local government. Supporting and closely related to these programs should be two smaller, shorter-term ones focused on parliament and the media.**

By its very nature, decentralization/local government should be seen as the longest-term endeavor within that package. One should expect faster results with the media, political parties, and parliament programs. More specifically, clear results should be manifest within two years of launching for the media program, and within three years for the political parties and parliament programs. At that point, the rationale behind, and demand for, such programs should be re-evaluated.

## **Political Parties**

A relatively small and short-term (approximately three years) program working with those political parties represented in the parliament elected in June 2001 should be a priority. The focus of this program should be to accomplish the following, inter-related goals:

- Improve these parties' connection to, and communication with, their constituents;
- Increase their capacity to represent the population and be responsive to its demands;
- Increase the extent to which they operate in a way that is transparent, both to their own members and to the general public. That objective should include greater transparency in the raising and spending of the funds required for electoral campaigns and the maintenance of party structures.
- Decentralize decision-making and increase internal democracy within these parties, making the leadership more accountable to the rank-and-file. That goal should include empowering local branches of the party, as well as mayors and other local officials, relative to their parties' national leaderships.
- Promote women's participation in decision-making arenas within political parties; increase the presence of women in safe slots on party lists; develop the campaign and public speaking skills of women candidates. Some of this work should be coordinated with the Women's Alliance for Development, which has just begun pioneering activities in this area (it organized the first training seminar for women candidates in April 2001).

Political party assistance should be coordinated closely with the parliamentary assistance program suggested below, particularly in two areas: working with parliamentary groups, and lobbying for the adoption and implementation of legislation to regulate the financing of political parties and elections.

## **Anti-Corruption**

Some anti-corruption activities already have been discussed in the above ROL section. Consequently, what is proposed here should be viewed as a natural complement to those activities.

Like with respect to the ROL program we outlined, **an anti-corruption strategy should have both supply and demand sides. The latter should revolve primarily on expanding the activities of Coalition 2000.** That coalition should now agitate for the establishment of specific mechanisms and structures to fight corruption, and it should monitor and publicize governmental progress (or the absence thereof) toward that goal.

**Regarding supply-side activities, three main directions can be proposed:**

1. *Monitor the implementation of the procurement law* passed in 2000, with a view to making sure that this law does result in the transparency-related improvements for which it was intended.
2. *Strengthen the National Audit Office (NAO)'s capacity to conduct financial and performance audits of other government agencies.* Though it is located within the executive branch, the NAO is an independent agency charged with overseeing public spending. It is empowered to verify all financial statements from departments within the central administration as well as by municipalities; to verify the use of all EU funds that Bulgaria receives as a result of its accession agreement with the EU; and to assess the risks involved in Bulgaria taking on new foreign debts and loans.

In addition to auditing public spending, the NAO more recently has begun to conduct performance audits. These audits aim to assess the extent to which the resources allocated to specific departments and agencies, or to specific projects, have been spent efficiently, in a cost-conscious manner; the extent to which project aims have been met; and/or the extent to which public agencies and departments discharge their functions effectively. Performance audits being a somewhat newer area of intervention for the NAO, that office might benefit particularly from assistance in that area, including exposure to how similar institutions in the United States and elsewhere operate, the challenges they face, and how they deal with these challenges.

3. *Help develop the role of the Inspector General in selected ministries.* The ministries selected ought to be chosen according to three criteria: (a) whether or not they operate in USAID target areas; (b) the existing capacity of their Inspector General's office; and (c) the likelihood that assistance to that office would yield meaningful, significant increases in the transparency of government operations.

We believe that working with the NAO and with the Inspector Generals of selected ministries represent the most practical, feasible way for USAID to make a strong contribution to increased transparency of government operations. This is particularly so in light of the very significant difficulties that have been faced in the past by donors who have sought to work in the area of public administration (PA). Both donor representatives and independent analysts with whom we spoke repeatedly described PA reform as a "black hole." For instance, the modernization and rationalization of the PA had been one of the four main foci of the World Bank's previous strategy for Bulgaria. However, the Bank's project aimed at improving the functioning of the PA never really got off the ground. During his interview with us, the World Bank representative ascribed this outcome to a lack of political will by the Bulgarian government. He noted that government's failure to appreciate the importance of PA reform, and the difficulty of engaging decision-makers in a genuine dialogue over that issue. It was clear throughout the interview that memories of that experience continue to act as a powerful deterrent to the Bank's inclination to consider PA-related projects. The European Union has had a similarly difficult experience working on issues of PA reform.

The lesson that emerges from this history is that efforts to reform Bulgaria's PA are genuinely difficult endeavors, and the track record of donors in this area is poor. In this context, it is best for USAID to target very specific niches or sectors within the PA where political will



might be greater (which, we believe, is the case of the NAO and of some Inspector Generals); where the needs can be reasonably easily identified and met; and where, consequently, assistance has a greater likelihood of making a real difference within a short time-frame. Considering that Part One identified the lack of transparency and accountability of governmental institution as one of the key D/G obstacle in Bulgaria, and since both the NAO and General Inspectors are particularly well positioned to tackle this problem, these institutions appear to be natural targets for USAID assistance.

### **Decentralization/Local Government**

**The current foci of the mission's local government program are appropriate and should be maintained.**

**1. Continued efforts to generate demands for decentralization, and to pressure the government to respond to these demands, are necessary.** In particular, increased lobbying for fiscal decentralization is called for – if only to take advantage of the apparently growing realization (including within the Ministry of Finance) of the need for it. This objective can be pursued, among other means, through continued institutional strengthening of the Foundation for Local Government Reform (FLGR), the National Association of Municipalities, and the various regional associations of municipalities. Activities along these lines conducted through USAID's Local Government Initiative (LGI) have yielded significant benefits and should be pursued.

**2.** Given the apparently justified concerns that were expressed repeatedly during our interviews about the ability of municipalities to design and implement budgets, **there is also a great need for further capacity building activities for municipalities.** The latter should be better prepared to discharge the new responsibilities that will be given to them in the future, should decentralization actually move ahead. Regional associations, as well as the National Association of Municipalities, should be among the prime vehicles for these capacity-building activities, as they are more likely than other means to contribute to the sustainability of such efforts, especially after the conclusion of U.S. assistance to Bulgaria.

**3. The mission's previous efforts to open up the work of municipalities to public input appear to have been successful and well-received, and should be continued. Increased citizen participation in local decision-making should remain a priority.**

**4.** As part of its decentralization/local government program, **the mission should consider a sub-set of activities to facilitate the contracting of services currently provided by the government to local for-profit and non-profit organizations.** Efforts should be made to encourage the passing of enabling legislation (that activity should be closely coordinated with the parliamentary assistance program discussed below). If and when such legislation passes, the focus should shift to two areas:

- (a) Helping local governments design and put in place appropriate, transparent mechanisms for engaging in contracting of relevant activities;

(b) Building up the capacity of selected NGOs (and of private sector entities, through the mission's economic growth portfolio) to assume responsibility for the provision of vital public services. In light of the inclusion challenges discussed earlier, particular attention should be placed on those services most likely to alleviate the problems found among women and ethnic minorities. This sub-program will call for particularly close cooperation with other donors, especially those whose involvement in social sectors is extensive. It also should be well-integrated with the other, non D/G components of the mission's overall strategy in Bulgaria, especially those that relate to private sector development and those that may aim to support social safety nets.

## **Parliament**

There are several areas in which parliament could be strengthened – not for its own sake, and not so as to improve its institutional capacity in general, but in order to serve the priorities of judicial reform and improved governance, as well as to meet the inclusion challenges that have been identified in this document. Consequently, **we recommend a small, stand-alone legislative assistance program for an initial three-year trial period** (after which the program's overall effectiveness might be evaluated and its future determined).

That program should be designed specifically so as to complement the other programs discussed in this document. Those charged with its implementation will need to cooperate closely with the contractors and grantees responsible for the activities undertaken to meet the key ROL, governance, and inclusion objectives. It will be imperative to make sure that this legislative assistance program remains focused, and that over time it does not turn into an institutional capacity-strengthening project that is conducted largely separately from the Mission's D/G priorities.

**We do recommend continuing the work that has been conducted through the Parliamentary Information Unit (PIU) and the internship program.** Both appear to have been very effective projects, and they certainly have been extremely well received. In spite of the very limited investments that were required to bring them about, they have enabled USAID to gain a great deal of public recognition and visibility within the parliamentary institution. Our only suggestion in this area is to consider placing greater emphasis on increasing the National Assembly's financial support for these initiatives, so as to ensure their long-term survival.

The goodwill toward USAID that has been enhanced by the PIU and internship activities provides a perfect opportunity for the Mission to expand its activities with parliament, in accordance with the rationale described above. Consequently, we propose that the parliamentary assistance program target the following objectives:

- 1. Improve the openness and policy-making capacity of those legislative committees that work directly in USAID target areas – including ROL/anti-corruption, local government, and ethnic minorities and women.** In light of the legal affairs committee's ability to shape prospects for judicial reform, particular attention should be paid to that committee, along the lines suggested below.

In general, capacity- and transparency-enhancing activities directed at legislative committees should focus on the following areas:

- *Make the work of these committees more open to public input in general.* As was discussed in Part One, parliament remains insufficiently open to civil society institutions, the media, and, more generally, its societal environment. Creating links between parliamentary committees and societal institutions would help remedy this problem. This component of the parliamentary assistance program will need to be closely coordinated with activities aimed at the media, local government, and NGOs.
- *Create regular opportunities for parliamentary committees to draw on the expertise found in think tanks, professional associations, and other such institutions.* Institutionalizing these contacts would likely improve the quality of the laws passed by parliament, and make sure that their wording and substance do not contain the same shortcomings that have afflicted prior legislation.
- Related to the two points mentioned above, *regular channels ought to be created between the legal affairs committees and those in the legal profession who can provide that committee with vital expertise and/or feedback.* For instance, the Bulgarian Judges Association should be contacted whenever the legal affairs committee examines bills that would have a significant impact on court operations. On many bills that it must consider, the legal affairs committee would undoubtedly benefit from the advice and opinions of independent judges and legal scholars. As was discussed in Part One, parliament currently solicits the input of judges and others in the legal profession only sporadically, and in an ad hoc manner that reflects personal contacts and political affiliation far more than standing in the field. Furthermore, on those few occasions when consultation occurs, it takes place too late for the opinions of these experts genuinely to be taken into account. That situation must change.
- *Identify and put in place other mechanisms through which the capacity of legislative committees to deal with substantive issues might be improved.*
- *Identify parliamentarians who appear to be committed to issues of judicial independence and capacity, and work toward the inclusion of those MPs into the coalition for judicial reform that was discussed earlier.*

**2. Because parliamentary groups play a critical role in law-making, assistance to the parliamentary committees should be complemented by parallel activities directed at the various parliamentary groups.**

**3. The parliamentary assistance program should feature activities that will help parliamentarians work across party lines.** As was shown in Part One, parliament suffers from an excessive level of partisanship and political squabbling. Though partisanship hinders the work of legislatures around the world, Bulgaria is one of those countries where work across party lines is almost non-existent. MPs' positions tend to be determined by their party affiliations, and these parties have an extremely poor record of being able to work with each other, even if only occasionally, in order to resolve pressing public policy issues.

In this context, **the parliamentary assistance program, in close collaboration with the political party program mentioned above, should work toward establishing coalitions that cut across party lines.** Particular attention might be paid to the new parliamentarians elected in June 2001, whose outlook and attitude might be less affected by the history of partisan wrangling that has afflicted previous legislatures. These and other MPs should be provided with opportunities to interact with each other in an effort to develop common positions **on issues directly related to USAID target areas:**

- Judicial reform and the fight against corruption;
- Decentralization;
- Issues affecting the Roma community (societal discrimination, unequal access to justice, etc.)
- Domestic violence and other women's rights issues (including those related to the Equal Opportunity Law which the new parliament will probably pass early in its term, but the implementation of which will need to be carefully monitored).

## **Media**

Following the logic that has just been discussed regarding parliament, **the Mission might consider a small, stand-alone program to strengthen the capacity of the media to contribute to the ROL, governance, and inclusion priorities discussed in this document.** That program could be implemented initially over a two-year period, after which it should be evaluated and its future determined. **It should build on the Mission's current Professional Media (ProMedia) program, but the latter should be refocused to contribute more directly to the priorities highlighted in this assessment.**

**1. The current ProMedia program is limited to the broadcast media. We strongly recommend expanding that focus to include the print media as well.** It is true that the combined circulation of newspapers is very limited, and that the quality of the reporting in them is generally considered to be quite low. Still, according to many of our interviewees, the press, for all its shortcomings, is more influential than the broadcast media is in shaping both public opinion and the country's political agenda. Newspapers do address – even if in a flawed manner – the political issues of the day, and their content shapes the issues people care about. Given both their deficiencies and influence, the print media should be included in the training activities supported by the Mission.

**2. Instead of focusing on general management and journalism skills, as has been the case until now, the training component of the media program should emphasize the development of those skills that will improve reporting on the priority areas identified in this document.**

- *Training in investigative journalism to report on corruption, criminal activities, and related issues.* That training would aim to enhance journalists' expertise in such

technical areas as privatization processes and mechanisms. It would seek to improve their understanding of the workings of a modern economy, and to develop their knowledge of such phenomena as international trafficking in goods and persons. Particularly called for are improvements in the press's reporting on corruption. As things stand, newspapers and magazines are replete with allegations of corruption, but these allegations usually remain largely unsubstantiated. As noted earlier, this situation only compounds the public's frustration. Much can and should be done to familiarize journalists and newspapers editors with investigative techniques, and to improve their understanding of the kind of evidence that is needed (for ethical reasons, in order to protect themselves against charges of slander and defamation, or in order for the relevant authorities to justify opening an investigation into the case) before going public with a corruption story.

- *Training to further journalists' understanding of the functioning (and dysfunction) of the judicial system.* As was noted on several occasions, the public's poor understanding of how the judicial system operates lies at the root of widespread, serious misunderstandings about such specific matters as particular court rulings, or more general phenomena such as where responsibilities lie for the fact that criminal activities go unpunished. Insufficient public knowledge of how the judicial system operates may also account for the failure on the part of the general public to appreciate the importance of judicial reform. The media's capacity to remedy these problems depends, in part, on its own grasp of judicial matters, and on its ability to report on them in a way that serves a broader educational purpose. Training, including in comparative legal systems, should be offered to contribute to this objective. More generally, improving communication between members of the judicial system and the media should be a priority.
- *Another priority should be to increase journalists' understanding of the inclusion-related issues that affect women and minorities, as well as their ability to report effectively on those issues, so as to bring about greater public awareness of their serious implications.* Those issues that should receive particular attention include domestic violence and the inadequacy of current legal and law-enforcement mechanisms to curb it; unequal access to justice by the Roma; persistent societal discrimination against that community; and the worsening socioeconomic situation of many among ethnic minorities, and why that situation represents a major obstacle to development prospects.
- In light of the other programmatic priorities suggested in this document, an effort also might be made to increase the capacity of the media to contribute to an informed public debate on such specific governance issues as fiscal decentralization (its importance and mechanics), and the challenges facing local government in Bulgaria.

**3. Side by side with these training activities, some effort should be made to institutionalize or revive the informal group of lawyers and investigative reporters that was established in May 2000, under the auspices of the Pro-Media program, in order to investigate cases of alleged corruption after they have been mentioned in the press.** That group, or one formed along the same lines, could operate as a catalyst for close cooperation between selected media

representatives and members of the judicial system on corruption and, more broadly, ROL issues.

**4. The refocused media program that we are suggesting will need to pay special attention to the inclusion of media representatives in the coalition for judicial reform that was discussed above.** The nature of those representatives, as well their roles in, and contributions to, that coalition will need to be carefully considered. Media participation in that coalition is critical, particularly as some members of the judiciary are beginning to think of the media as potential allies in their efforts to fight corruption in, and improve the functioning of, the judicial system.

**5. Specific activities also should be designed to strengthen the media's capacity to protect itself against governmental attempts at political control.** As Part One pointed out, this problem affects the electronic media in particular, though the government's frequent attempts to interfere with newspapers' editorial lines also have created concern.

The most effective way to enable the media to resist these efforts is to continue working with media associations, strengthening the latter's effectiveness in general, and their capacity to advocate on media issues (including pressing for improvements to the regulatory framework) in particular. Advocacy efforts should be directed not only at the government, but also at the public at large. This means that media associations will have to become more pro-active and effective at representing the interests and opinions of their members to diverse constituencies.

- In the print sector, the Union of Newspapers Publishers might be worth supporting, in light of the courageous and pro-active attitude it has adopted recently regarding the matters discussed here.
- Regarding professional associations in the electronic media, we would recommend continuation of the activities which ProMedia has conducted with the Bulgarian Media Coalition and the Association of Bulgarian Broadcasters (ABBRO). Both associations have now established themselves as credible entities that are consulted by the authorities on issues that affect the profession. Not only do they have a seat at the table where decisions are made, but their input appears to be taken into account. They are worthy of continued support aimed at making them more capable of standing up to the government on matters of media independence from political control.

**6. Media program implementors will need to cooperate closely with their counterparts in the legislative assistance program.** Together, they should seek to identify the contributions that the media can make toward opening the work of parliament to public input, and toward making sure that the issue-specific expertise found in the media is tapped by the relevant parliamentary committees. The two programs should also cooperate to improve media coverage of parliamentary activities, especially those relevant to USAID target areas.

In addition, it would be desirable for the media to publicize the activities of parliamentarians who work across party lines, especially if and when these activities result in legislative successes. This would help advertise the benefits that can accrue from decreased partisanship, and thus increase pressure on MPs to behave in a more pragmatic, constructive manner.

## NGOs

As mentioned earlier, the future of the Mission's currently extensive civil society program was the one area in which some disagreements manifested themselves within the team. Some felt that the NGO component of the Mission's program ought to be scaled down significantly, especially in light of what they thought was civil society's persistent weaknesses; the limits of its contributions to democracy and governance thus far (despite very significant infusions of donor funding); and its weak record in mobilizing public opinion behind a reform agenda relevant to the critical ROL and governance issues that have been identified in this document. These members felt that the civil society component of the Mission's portfolio should be limited, for the most part, to two kinds of NGOs or think tanks: (a) those that would be involved in the ROL and governance activities identified above (i.e., participants in *Coalition 2000* as well as the think tanks and professional associations that would be included in the coalition for judicial reform); and (b) locally based NGOs best positioned to contribute to the local government objectives of the D/G strategy.

However, other members of the team felt somewhat more positive about the record of civil society thus far, as well as about its capacity to contribute to the objectives identified as priorities in this document – especially perhaps in the inclusion area. It should be noted that the disagreements to which we are referring were largely a matter of emphasis and relative weight. No one argued that civil society should be the main component of the next D/G strategy, or that it should be eliminated completely and immediately as a component of that strategy. The disagreement was merely over how much of an emphasis should be placed on civil society-strengthening activities in the future.

In light of these differences, a compromise solution might lie in the following:

**1. The activities carried out under the Democracy Network Program II (Demnet II) should be closed down, or progressively phased out, after that program runs its course.** Demnet I was initiated in 1995, as a three-year program that was subsequently renewed, in the form of Demnet II, in late 1998. The rationale behind such a stand-alone, extensive program is no longer as strong as it was at the time, when opportunities to act on other critical D/G sectors were more limited. The rationale for such a program also needs to be revisited in light of the limited progress accomplished in the field of civil society development, despite significant infusions of donor support. However, selected, relevant activities in Demnet II might become part of the more focused NGO-centered program we suggest below.

**The Mission might consider a smaller, more focused NGO program.** The rationale for that program would not be the general argument that, since a vibrant civil society is a building block of a healthy, well-operating democratic system, it should be strengthened. Instead, the program would be driven by the contributions that civil society can make to the key rule of law, governance, and inclusion challenges discussed in this document. **According to this logic, targeted civil-society strengthening activities would be used mostly as instruments through which critical ROL, governance, and inclusion objectives can be attained.**

When combined with the other recommendations made in this document, this approach points to two main sectors for civil society work: judicial reform and local government/decentralization.

- With respect to judicial reform, the reader should refer back to the proposed recommendations for demand-side activities in the ROL section.
- With respect to decentralization/local government, and consistent with the relevant section above, the primary emphasis should be on the following:
  - υ Develop the capacity of carefully selected NGOs to agitate for decentralization;
  - υ Strengthen the capacity of local NGOs to engage municipal authorities on issues of citizen participation in local decision-making processes (which should be a primary vehicle for fighting political apathy and citizen disengagement from politics);
  - υ Build up the capacity of service-delivery NGO to engage in social contracting with municipal authorities.
  - υ Provide special support to selected local NGOs that have shown themselves
- effective at addressing the specific problems faced by women and ethnic minorities, especially Roma. In working with Roma NGOs, cooperate closely with other donors, in particular the EU and the Open Society Foundation, for whom improving the situation of Roma is a cross-cutting theme and a priority.
  - υ Continue to support the institutional strengthening of the Foundation for Local Government Reform (FLGR), the National Association of Municipalities and the various regional associations of municipalities.

Within the context of the smaller, more focused NGO program we are suggesting here, the Community Foundation Program should be viewed as worthy of continued support, as that program is particularly well-designed to address the issue of political apathy. (Under this program, NGOs can undertake activities only if the latter can be shown to benefit the community, which is therefore likely to increase that community's appreciation for the benefits of civic engagement.)

We believe that, in light of its strong record in the D/G field, as well as because of the quality and versatility of its staff, USAID/Sofia is particularly well-equipped to undertake the kind of strategy and activities outlined in this document, including those that might require the Mission to engage in new areas, or redirect its existing programs. We hope the Mission finds the assessment and recommendations contained in this document helpful, and thank its staff for having been given the opportunity to cooperate with it on this project.



## **PARTIAL LIST OF PERSONS INTERVIEWED**

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